

**ARKANSAS DEPARTMENT OF EDUCATION
PROPOSED REVISION TO RULES GOVERNING
SPECIAL EDUCATION CATASTROPHIC OCCURRENCES**

1.01 REGULATORY AUTHORITY

- 1.01.1** These ~~regulations~~ rules shall be known as Arkansas Department of Education Rules and Regulations to Implement the Appropriation for Special Education Catastrophic Occurrences.
- 1.01.2** These ~~regulations~~ rules are enacted pursuant to the State Board of Education's authority under Ark. Code Ann. 6-41-207 and 6-11-105.

1.02 PURPOSE

- 1.02.1** It is the purpose of these ~~regulations~~ rules to set forth the criteria for determining local school district eligibility for seeking reimbursement for Special Education Catastrophic Occurrences as defined under Ark. Code Ann. 6-20-323.
- 1.02.2** These ~~regulations~~ rules define the process for local school district access to funds for Special Education Catastrophic Occurrences.

1.03 DEFINITIONS

- 1.03.1** For the purpose of these ~~regulations~~ rules, Special Education Catastrophic Occurrences means those individual cases where special education and related services required by the individualized education program (IEP) of a particular child with disabilities are unduly expensive, extraordinary and/or beyond the routine and normal costs associated with special education and related services provided by the local education agency.

~~**1.03.1.1** Those individual cases where special education and related services required by the individualized education program (IEP) of a particular child with disabilities are unduly expensive, extraordinary and/or beyond the routine and normal costs associated with special education and related services provided by the local education agency, or~~

~~1.03.1.2~~ — ~~The aggregate special education expenses per ADM of a local school district places the LEA at the 75th percentile or above among all Arkansas school districts in special education expenditure per ADM as reported on the most recent Annual Financial Report (AFR) submitted to the ADE, Special Education Unit.~~

1.03.2 IDEA refers to the Individuals with Disabilities Education Act.

1.03.3 IEP means the individualized education program for a student with disabilities under the IDEA.

1.04 ADMINISTRATION

1.04.1 The Special Education Catastrophic Occurrences fund will be administered by the Arkansas Department of Education, Special Education Unit.

1.04.2 In the event that requests for reimbursement exceed the amount of funds available in the Catastrophic Occurrences Budget fund, reimbursements will be pro-rated.

1.05 ELIGIBILITY CRITERIA FOR CATASTROPHIC OCCURRENCE

1.05.1 A district is deemed eligible to apply for reimbursement under these regulations rules for a catastrophic occurrence when the costs associated with an individual student, after offsets from other available revenue sources, equal or exceed \$30,000-\$15,000.

~~1.05.1.1~~ — ~~The costs associated with an individual student equal or exceed \$30,000, **or**~~

~~1.05.1.2~~ — ~~The aggregate special education expenditures per ADM places the district at or above the 75th percentile among all Arkansas school districts in special education expenditure/ADM, as reported on the most recent Annual Financial Report (AFR) submitted to the ADE, Special Education Unit.~~

1.05.2 In calculating costs associated with an individual student, the costs must be incurred solely as a result of the provision of special education and related services to the individual student.

1.05.3 *Ineligible* costs include, but may not be limited to, the basic costs of the classroom, such as the maintenance and operation of the classroom, basic materials and supplies, basic transportation and other routine and normal costs associated with the provision of special education and related services to children with disabilities.

1.05.4 *Eligible* costs include, ~~but may not be limited to, the pro-rata share of the teacher's salary and any other costs not excluded in §1.05.3 that the district is incurring solely as a result of the provision of special education and related services to this student.~~ Examples include ~~one-to-one~~ private duty nursing services, special transportation aide, specialized equipment, specific staff development, occupational therapy, physical therapy, speech-language pathology, "extra help" ~~paraprofessional~~ personal care assistance, extended school year services, the pro-rata share of the costs of a teacher whose primary assignment is the student, etc and Medicaid match.

1.05.5 ~~The ADE, Special Education Unit will rank all school districts based on the reported special education expenditures of each district divided by the ADM of the district to determine which districts are at or above the 75th percentile among Arkansas school districts in special education expenditure/ADM, as reported on the most recent AFR submitted to the ADE, Special Education Unit.~~

1.05.6 The district must demonstrate and document that it has fully accessed, to the maximum extent possible, other ~~avenues of funds~~ available revenue sources, such as including Medicaid and Title VI-B, or provide ~~a rationale~~ documentation as to why ~~this these, or other revenue sources, was were~~ unavailable to the district for this catastrophic occurrence.

1.05.7 Other available revenue sources, including Medicaid and Title VI-B, are to be applied by the district as offsets to reimbursable costs for each catastrophic occurrence reimbursed through the Catastrophic Occurrences fund.

1.06 REIMBURSEMENT FOR CATASTROPHIC OCCURRENCES BASED ON INDIVIDUAL STUDENT

1.06.1 The Arkansas Department of Education, Special Education Unit, will provide local education agencies with a format for

requesting catastrophic occurrence reimbursement ~~request form~~ to be completed and submitted to the Special Education Unit no later than May 15 of each school year.

1.06.2 Reimbursement requests will be reviewed to determine whether the district has incurred a “catastrophic occurrence” as defined in these ~~regulations~~ rules.

1.06.3 After offsets from other revenue sources as specified in §1.05.6, the maximum amount of reimbursement for each catastrophic occurrence will be the lesser of \$30,000 \$15,000 or and the sum of the following -

1.06.3.1 ~~Sixty (60)~~ Eighty (80) percent of ~~the first any additional amount above \$15,000 up to \$20,000~~ \$50,000 of the amount of the catastrophic occurrence, and

1.06.3.2 ~~Forty (40)~~ Fifty (50) percent of the any additional amount over \$20,000 above \$50,000 up to \$60,000, and \$100,000 of the amount of the catastrophic occurrence.

~~**1.06.3.3** Thirty (30) percent of any amount over \$60,000.~~

~~**1.06.4** In the event that requests for reimbursement exceed the amount of funds available in the Catastrophic Occurrences budget, reimbursements will be pro-rated.~~

~~1.07 REIMBURSEMENT FOR AGGREGATE SPECIAL EDUCATION COSTS THAT CONSTITUTE A CATASTROPHIC OCCURRENCE AS DEFINED IN § 1.05.1.1~~

~~**1.07.1** Based on the ranking of districts as described in § 1.05.1.2, the Arkansas Department of Education, Special Education Unit will determine the eligible districts and calculate the amount of reimbursement available to each district.~~

~~**1.07.2** The reimbursement under aggregated special education costs will be calculated by summing the December 1 child count (for the school year in which the most recent AFR is available) of all districts which are at or above the 75th percentile and dividing the total into the amount of funds available (after the calculations have been made for catastrophic occurrences based on individual student) times the December 1 child count used previously for each district.~~

~~1.07.3~~ — An application for reimbursement will not need to be filed by the district for funds under this part. The ADE, Special Education Unit, will process payments based on data it has collected previously from districts.

~~1.08~~ ~~LIMITATION ON REIMBURSEMENT~~

~~1.07~~ ~~LIMITATION ON REIMBURSEMENT~~

~~1.07.1~~ No individual school district catastrophic occurrence shall be eligible to receive for reimbursement of more than \$100,000 from this fund per year.

~~1.08.2~~ — When a district qualifies for funding under both §§ 1.06 and 1.07, the amount of funding a district is eligible to receive under § 1.06 will be deducted from the amount the district is eligible to receive under § 1.07, unless the district has already qualified for the maximum amount available.